

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

In the Matter of)	
)	
Whipsawing by the Philippines Long)	IB Docket No. 03-38
Distance Telephone Company on the)	
U.S.-Philippines Route)	

COMMENTS OF DIGICEL LIMITED

Digicel Limited ("Digicel" hereby submits the following comments to the Federal Communications Commission ("Commission") in the above-captioned proceeding in support of the Petitions filed by WorldCom, Inc. ("WorldCom") and AT&T Corp. ("AT&T") for protection from whipsawing on the U.S.-Philippines route.¹ Digicel strongly opposes the abuse of market power by dominant and incumbent providers in foreign markets to maintain a stranglehold on international telecommunications services markets at the expense of U.S. consumers and competition.

Based on the information provided in the WorldCom and AT&T Petitions, the incumbent provider, Philippines Long Distance Telephone Company ("PLDT"), appears to be in violation of the Commission's whipsawing policy.² As such and if confirmed by the Commission, the Commission should order U.S. carriers to suspend all payments to PLDT until PLDT restores international service to WorldCom and AT&T on the U.S.-Philippines international traffic route.

¹ See *Petition of WorldCom, Inc. for Prevention of "Whipsawing" on the U.S. Philippines Route*, IB Docket No. 03-38, filed February 7, 2003 ("*WorldCom Petition*"); *AT&T Emergency Petition for Settlements Stop Payment Order and Request for Immediate Relief*, IB Docket No. 03-38, filed February 7, 2003 ("*AT&T Petition*").

² See *id.* See also, *Uniform Settlement Rates on Parallel International Communications Routes*, 84 FCC 2d. 121 (1980); *International Settlements Policy Reform*, IB Docket No. 02-234, *International Settlement Rates*, IB Docket No. 96-261, Notice of Proposed Rulemaking, FCC 02-285, rel. October 11, 2002.

Digicel has experienced an analogous development in Jamaica, one of the markets in which Digicel provides telecommunications services. In Jamaica, the Jamaica Office of Utilities Regulation, at the insistence of the incumbent international long distance provider, Cable & Wireless Jamaica ("CWJ"), has proposed instituting an "access deficit charge" on all incoming international calls to Jamaica.³ At the insistence of CWJ, the OUR has kept secret the methodology and the figures provided by CWJ to set the ADCs. In effect, through the abuse of its market power, CWJ is attempting to establish a legal price floor, a surcharge if you will, that all competitive carriers must pay to CWJ for the next seven years. Similar to the whipsaw by PLDT, there has been no objective justification provided by the OUR or CWJ for the institution of this charge.⁴

Both the actions of the incumbent carriers in the Philippines and Jamaica violate the Commission's longstanding goal of achieving cost-oriented settlement rates.⁵ Accordingly, the

³ See *Modifications to C&WJ's Price Cap Plan and Proposed Rules for International Telecommunications Services*, Consultative Document, Jamaica Office of Utilities Regulation, rel. August 31, 2002, ¶3.9

⁴ See *WorldCom Petition*, at 2; *AT&T Petition*, at 3.

⁵ See *WorldCom Petition*, at 4.

Commission should take appropriate action to protect U.S. consumers and competitors on the U.S.-Philippines Route.

Respectfully submitted,

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